

PCS for HB 1319

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to assisted living facilities;
 3 amending s. 394.4574, F.S.; providing that Medicaid
 4 prepaid behavioral health plans are responsible for
 5 enrolled mental health residents; providing that
 6 managing entities under contract with the Department
 7 of Children and Families are responsible for mental
 8 health residents who are not enrolled with a Medicaid
 9 prepaid behavioral health plan; deleting a provision
 10 to conform to changes made by the act; requiring that
 11 the community living support plan be completed and
 12 provided to the administrator of a facility upon the
 13 mental health resident's admission; requiring the
 14 community living support plan to be updated when there
 15 is a significant change to the mental health
 16 resident's behavioral health; requiring the case
 17 manager assigned to a mental health resident of an
 18 assisted living facility that holds a limited mental
 19 health license to keep a record of the date and time
 20 of face-to-face interactions with the resident and to
 21 make the record available to the responsible entity
 22 for inspection; requiring that the record be
 23 maintained for a specified time; requiring the
 24 responsible entity to ensure that there is adequate
 25 and consistent monitoring and enforcement of community
 26 living support plans and cooperative agreements and
 27 that concerns are reported to the appropriate
 28 regulatory oversight organization under certain

PCS for HB 1319

ORIGINAL

YEAR

29 | circumstances; amending s. 400.0078, F.S.; requiring
 30 | that residents of long-term care facilities be
 31 | informed that retaliatory action cannot be taken
 32 | against a resident for presenting grievances or for
 33 | exercising any other resident right; amending s.
 34 | 429.07, F.S.; providing that an extended congregate
 35 | care license is issued to certain facilities that have
 36 | been licensed as assisted living facilities under
 37 | certain circumstances; providing the purpose of an
 38 | extended congregate care license; providing that the
 39 | initial extended congregate care license of an
 40 | assisted living facility is provisional under certain
 41 | circumstances; requiring the licensee to notify the
 42 | Agency for Health Care Administration whenever it
 43 | accepts a resident who qualifies for extended
 44 | congregate care services; requiring the agency to
 45 | inspect the facility for compliance with the
 46 | requirements of an extended congregate care license;
 47 | authorizing the agency to waive one of the required
 48 | yearly monitoring visits under certain circumstances;
 49 | authorizing the agency to deny or revoke a facility's
 50 | extended congregate care license for certain reasons
 51 | or on certain grounds; requiring a registered nurse
 52 | representing the agency to visit the facility at least
 53 | annually, rather than twice a year, to monitor
 54 | residents who are receiving limited nursing services;
 55 | providing that the agency's monitoring visits may be
 56 | in conjunction with other agency inspections;

PCS for HB 1319

ORIGINAL

YEAR

57 | authorizing the agency to waive one of the required
 58 | yearly monitoring visits for certain facilities;
 59 | amending s. 429.075, F.S.; requiring an assisted
 60 | living facility that serves one or more mental health
 61 | residents to obtain a limited mental health license;
 62 | revising the methods in which a limited mental health
 63 | facility may satisfy the appropriateness of placement
 64 | requirements to include providing written evidence to
 65 | the Department of Children and Family Services that a
 66 | request for documentation was sent within 72 hours of
 67 | admission; amending s. 429.14, F.S.; revising the
 68 | actions in which the agency may deny, revoke, or
 69 | suspend the license of an assisted living facility and
 70 | impose an administrative fine; revising the criteria
 71 | upon which the agency must deny or revoke the license
 72 | of an assisted living facility; providing that the
 73 | licensee may present certain factors in mitigation of
 74 | the revocation of a license; requiring the agency to
 75 | impose an immediate moratorium on the license of an
 76 | assisted living facility under certain circumstances;
 77 | deleting a provision requiring the agency to provide a
 78 | list of facilities with denied, suspended, or revoked
 79 | licenses to the Department of Business and
 80 | Professional Regulation; exempting a facility from the
 81 | 45-day notice requirement if it is required to
 82 | relocate some or all of its residents; amending s.
 83 | 429.19, F.S.; revising the amounts and uses of
 84 | administrative fines; requiring the agency to levy a

PCS for HB 1319

ORIGINAL

YEAR

85 | fine for violations that are corrected before an
 86 | inspection if noncompliance occurred within a
 87 | specified period of time; deleting factors that the
 88 | agency is required to consider to determine penalties
 89 | and fines; amending s. 429.41, F.S.; clarifying that
 90 | an abbreviated biennial inspection may not be used for
 91 | a facility that has confirmed ombudsman or licensure
 92 | complaints, which resulted in a citation for licensure
 93 | violation; amending s. 429.52, F.S.; requiring each
 94 | newly hired employee of an assisted living facility to
 95 | attend a preservice orientation provided by the
 96 | assisted living facility; requiring the employee and
 97 | administrator to sign an affidavit upon completion of
 98 | the preservice orientation; requiring the assisted
 99 | living facility to maintain the signed affidavit in
 100 | each employee's work file; conforming a cross-
 101 | reference; requiring the Agency for Health Care
 102 | Administration in conjunction with the Department of
 103 | Elder Affairs to establish a database for the
 104 | collection of employee and administrator training
 105 | documentation; amending s. 429.54, F.S.; requiring the
 106 | development of electronic systems of communication
 107 | among all agencies involved in the regulation of
 108 | assisted living facilities; creating s. 429.55, F.S.;
 109 | requiring the Agency for Health Care Administration to
 110 | study the reliability of facility surveys and submit
 111 | to the Governor and the Legislature its findings and
 112 | recommendations; creating s. 429.56, F.S.; requiring

PCS for HB 1319

ORIGINAL

YEAR

113 | the agency to propose a rating system of assisted
 114 | living facilities for consumers; providing criteria
 115 | for the content; providing an effective date.

116 |
 117 | Be It Enacted by the Legislature of the State of Florida:
 118 |

119 |
 120 | Section 1. Section 394.4574, Florida Statutes, is amended
 121 | to read:

122 | 394.4574 ~~Department~~ Responsibilities for coordination of
 123 | services for a mental health resident who resides in an assisted
 124 | living facility that holds a limited mental health license.—

125 | (1) As used in this section, the term "mental health
 126 | resident" ~~"mental health resident," for purposes of this~~
 127 | ~~section,~~ means an individual who receives social security
 128 | disability income due to a mental disorder as determined by the
 129 | Social Security Administration or receives supplemental security
 130 | income due to a mental disorder as determined by the Social
 131 | Security Administration and receives optional state
 132 | supplementation.

133 | (2) Medicaid prepaid behavioral health plans are
 134 | responsible for enrolled mental health residents, and managing
 135 | entities under contract with the department are responsible for
 136 | mental health residents who are not enrolled with a Medicaid
 137 | prepaid behavioral health plan. Each responsible entity shall
 138 | ~~The department must~~ ensure that:

139 | (a) A mental health resident has been assessed by a
 140 | psychiatrist, clinical psychologist, clinical social worker, or

PCS for HB 1319

ORIGINAL

YEAR

141 psychiatric nurse, or an individual who is supervised by one of
 142 these professionals, and determined to be appropriate to reside
 143 in an assisted living facility. The documentation must be
 144 provided to the administrator of the facility within 30 days
 145 after the mental health resident has been admitted to the
 146 facility. An evaluation completed upon discharge from a state
 147 mental hospital meets the requirements of this subsection
 148 related to appropriateness for placement as a mental health
 149 resident if it was completed within 90 days before ~~prior to~~
 150 admission to the facility.

151 (b) A cooperative agreement, as required in s. 429.075, is
 152 developed between the mental health care services provider that
 153 serves a mental health resident and the administrator of the
 154 assisted living facility with a limited mental health license in
 155 which the mental health resident is living. ~~Any entity that~~
 156 ~~provides Medicaid prepaid health plan services shall ensure the~~
 157 ~~appropriate coordination of health care services with an~~
 158 ~~assisted living facility in cases where a Medicaid recipient is~~
 159 ~~both a member of the entity's prepaid health plan and a resident~~
 160 ~~of the assisted living facility. If the entity is at risk for~~
 161 ~~Medicaid targeted case management and behavioral health~~
 162 ~~services, the entity shall inform the assisted living facility~~
 163 ~~of the procedures to follow should an emergent condition arise.~~

164 (c) The community living support plan, as defined in s.
 165 429.02, has been prepared by a mental health resident and a
 166 mental health case manager of that resident in consultation with
 167 the administrator of the facility or the administrator's
 168 designee. The plan must be completed and provided to the

PCS for HB 1319

ORIGINAL

YEAR

169 administrator of the assisted living facility with a limited
 170 mental health license in which the mental health resident lives
 171 upon the resident's admission. The support plan and the
 172 agreement may be in one document.

173 (d) The assisted living facility with a limited mental
 174 health license is provided with documentation that the
 175 individual meets the definition of a mental health resident.

176 (e) The mental health services provider assigns a case
 177 manager to each mental health resident for whom the entity is
 178 responsible ~~who lives in an assisted living facility with a~~
 179 ~~limited mental health license~~. The case manager is responsible
 180 for coordinating the development of and implementation of the
 181 community living support plan defined in s. 429.02. The plan
 182 must be updated at least annually, or when there is a
 183 significant change to the resident's behavioral health status,
 184 such as an inpatient admission or a change in behavioral status,
 185 medications, level of service, or residence. Each case manager
 186 shall keep a record of the date and time of any face-to-face
 187 interaction with the resident and make the record available to
 188 the responsible entity for inspection. The record must be
 189 retained for at least 2 years after the date of the most recent
 190 interaction.

191 (f) Adequate and consistent monitoring and enforcement of
 192 community living support plans and cooperative agreements are
 193 conducted by the resident's case manager.

194 (g) Concerns are reported to the appropriate regulatory
 195 oversight organization if a regulated provider fails to deliver
 196 appropriate services or otherwise acts in a manner that has the

PCS for HB 1319

ORIGINAL

YEAR

197 | potential to result in harm to the resident.

198 | (3) The Secretary of Children and Family Services, in
 199 | consultation with the Agency for Health Care Administration,
 200 | shall ~~annually~~ require each district administrator to develop,
 201 | with community input, a detailed annual plan that demonstrates
 202 | ~~detailed plans that demonstrate~~ how the district will ensure the
 203 | provision of state-funded mental health and substance abuse
 204 | treatment services to residents of assisted living facilities
 205 | that hold a limited mental health license. These plans must be
 206 | consistent with the substance abuse and mental health district
 207 | plan developed pursuant to s. 394.75 and must address case
 208 | management services; access to consumer-operated drop-in
 209 | centers; access to services during evenings, weekends, and
 210 | holidays; supervision of the clinical needs of the residents;
 211 | and access to emergency psychiatric care.

212 | Section 2. Subsection (2) of section 400.0078, Florida
 213 | Statutes, is amended to read:

214 | 400.0078 Citizen access to State Long-Term Care Ombudsman
 215 | Program services.—

216 | (2) ~~Every resident or representative of a resident shall~~
 217 | ~~receive,~~ Upon admission to a long-term care facility, each
 218 | resident or representative of a resident must receive
 219 | information regarding the purpose of the State Long-Term Care
 220 | Ombudsman Program, the statewide toll-free telephone number for
 221 | receiving complaints, information that retaliatory action cannot
 222 | be taken against a resident for presenting grievances or for
 223 | exercising any other resident right, and other relevant
 224 | information regarding how to contact the program. Residents or

PCS for HB 1319

ORIGINAL

YEAR

225 | their representatives must be furnished additional copies of
 226 | this information upon request.

227 | Section 3. Paragraphs (b) and (c) of subsection (3) of
 228 | section 429.07, Florida Statutes, are amended to read:

229 | 429.07 License required; fee.—

230 | (3) In addition to the requirements of s. 408.806, each
 231 | license granted by the agency must state the type of care for
 232 | which the license is granted. Licenses shall be issued for one
 233 | or more of the following categories of care: standard, extended
 234 | congregate care, limited nursing services, or limited mental
 235 | health.

236 | (a) A standard license shall be issued to facilities
 237 | providing one or more of the personal services identified in s.
 238 | 429.02. Such facilities may also employ or contract with a
 239 | person licensed under part I of chapter 464 to administer
 240 | medications and perform other tasks as specified in s. 429.255.

241 | (b) An extended congregate care license shall be issued to
 242 | facilities that have been licensed as assisted living facilities
 243 | for 2 or more years and that provide ~~providing~~, directly or
 244 | through contract, services beyond those authorized in paragraph
 245 | (a), including services performed by persons licensed under part
 246 | I of chapter 464 and supportive services, as defined by rule, to
 247 | persons who would otherwise be disqualified from continued
 248 | residence in a facility licensed under this part. An extended
 249 | congregate care license may also be issued to those facilities
 250 | that have provisional extended congregate care licenses and meet
 251 | the requirements for licensure under subparagraph 2. The primary
 252 | purpose of extended congregate care services is to allow

PCS for HB 1319

ORIGINAL

YEAR

253 residents, as they become more impaired, the option of remaining
 254 in a familiar setting from which they would otherwise be
 255 disqualified for continued residency. A facility licensed to
 256 provide extended congregate care services may also admit an
 257 individual who exceeds the admission criteria for a facility
 258 with a standard license, if the individual is determined
 259 appropriate for admission to the extended congregate care
 260 facility.

261 1. In order for extended congregate care services to be
 262 provided, the agency must first determine that all requirements
 263 established in law and rule are met and must specifically
 264 designate, on the facility's license, that such services may be
 265 provided and whether the designation applies to all or part of
 266 the facility. Such designation may be made at the time of
 267 initial licensure or relicensure, or upon request in writing by
 268 a licensee under this part and part II of chapter 408. The
 269 notification of approval or the denial of the request shall be
 270 made in accordance with part II of chapter 408. Existing
 271 facilities qualifying to provide extended congregate care
 272 services must have maintained a standard license and may not
 273 have been subject to administrative sanctions during the
 274 previous 2 years, or since initial licensure if the facility has
 275 been licensed for less than 2 years, for any of the following
 276 reasons:

- 277 a. A class I or class II violation;
- 278 b. Three or more repeat or recurring class III violations
- 279 of identical or similar resident care standards from which a
- 280 pattern of noncompliance is found by the agency;

PCS for HB 1319

ORIGINAL

YEAR

281 c. Three or more class III violations that were not
 282 corrected in accordance with the corrective action plan approved
 283 by the agency;

284 d. Violation of resident care standards which results in
 285 requiring the facility to employ the services of a consultant
 286 pharmacist or consultant dietitian;

287 e. Denial, suspension, or revocation of a license for
 288 another facility licensed under this part in which the applicant
 289 for an extended congregate care license has at least 25 percent
 290 ownership interest; or

291 f. Imposition of a moratorium pursuant to this part or
 292 part II of chapter 408 or initiation of injunctive proceedings.

293 2. If an assisted living facility has been licensed for
 294 less than 2 years but meets all other licensure requirements for
 295 an extended congregate care license, it shall be issued a
 296 provisional extended congregate care license for a period of 6
 297 months. Within the first 3 months after the provisional license
 298 is issued, the licensee shall notify the agency when it has
 299 admitted an extended congregate care resident, after which an
 300 unannounced inspection shall be made to determine compliance
 301 with requirements of an extended congregate care license. If the
 302 licensee demonstrates compliance with all of the requirements of
 303 an extended congregate care license during the inspection, the
 304 licensee shall be issued an extended congregate care license. In
 305 addition to sanctions authorized under this part, if violations
 306 are found during the inspection and the licensee fails to
 307 demonstrate compliance with all assisted living requirements
 308 during a followup inspection, the licensee shall immediately

PCS for HB 1319

ORIGINAL

YEAR

309 suspend extended congregate care services, and the provisional
 310 extended congregate care license expires.

311 3.2- A facility that is licensed to provide extended
 312 congregate care services shall maintain a written progress
 313 report on each person who receives services which describes the
 314 type, amount, duration, scope, and outcome of services that are
 315 rendered and the general status of the resident's health. A
 316 registered nurse, or appropriate designee, representing the
 317 agency shall visit the facility at least twice a year ~~quarterly~~
 318 to monitor residents who are receiving extended congregate care
 319 services and to determine if the facility is in compliance with
 320 this part, part II of chapter 408, and relevant rules. One of
 321 the visits may be in conjunction with the regular survey. The
 322 monitoring visits may be provided through contractual
 323 arrangements with appropriate community agencies. A registered
 324 nurse shall serve as part of the team that inspects the
 325 facility. The agency may waive one of the required yearly
 326 monitoring visits for a facility ~~that has been licensed for at~~
 327 ~~least 24 months to provide extended congregate care services,~~
 328 ~~if, during the inspection, the registered nurse determines that~~
 329 ~~extended congregate care services are being provided~~
 330 ~~appropriately, and if the facility has held an extended~~
 331 ~~congregate care license during the last 24 months, has had no~~
 332 ~~class I or class II violations, has had ~~and~~ no uncorrected class~~
 333 ~~III violations, and has had no confirmed ombudsman council~~
 334 ~~complaints that resulted in a citation for licensure. The agency~~
 335 ~~must first consult with the long-term care ombudsman council for~~
 336 ~~the area in which the facility is located to determine if any~~

PCS for HB 1319

ORIGINAL

YEAR

337 ~~complaints have been made and substantiated about the quality of~~
 338 ~~services or care. The agency may not waive one of the required~~
 339 ~~yearly monitoring visits if complaints have been made and~~
 340 ~~substantiated.~~

341 4.3. A facility that is licensed to provide extended
 342 congregate care services must:

343 a. Demonstrate the capability to meet unanticipated
 344 resident service needs.

345 b. Offer a physical environment that promotes a homelike
 346 setting, provides for resident privacy, promotes resident
 347 independence, and allows sufficient congregate space as defined
 348 by rule.

349 c. Have sufficient staff available, taking into account
 350 the physical plant and firesafety features of the building, to
 351 assist with the evacuation of residents in an emergency.

352 d. Adopt and follow policies and procedures that maximize
 353 resident independence, dignity, choice, and decisionmaking to
 354 permit residents to age in place, so that moves due to changes
 355 in functional status are minimized or avoided.

356 e. Allow residents or, if applicable, a resident's
 357 representative, designee, surrogate, guardian, or attorney in
 358 fact to make a variety of personal choices, participate in
 359 developing service plans, and share responsibility in
 360 decisionmaking.

361 f. Implement the concept of managed risk.

362 g. Provide, directly or through contract, the services of
 363 a person licensed under part I of chapter 464.

364 h. In addition to the training mandated in s. 429.52,

PCS for HB 1319

ORIGINAL

YEAR

365 provide specialized training as defined by rule for facility
 366 staff.

367 5.4. A facility that is licensed to provide extended
 368 congregate care services is exempt from the criteria for
 369 continued residency set forth in rules adopted under s. 429.41.
 370 A licensed facility must adopt its own requirements within
 371 guidelines for continued residency set forth by rule. However,
 372 the facility may not serve residents who require 24-hour nursing
 373 supervision. A licensed facility that provides extended
 374 congregate care services must also provide each resident with a
 375 written copy of facility policies governing admission and
 376 retention.

377 ~~5. The primary purpose of extended congregate care~~
 378 ~~services is to allow residents, as they become more impaired,~~
 379 ~~the option of remaining in a familiar setting from which they~~
 380 ~~would otherwise be disqualified for continued residency. A~~
 381 ~~facility licensed to provide extended congregate care services~~
 382 ~~may also admit an individual who exceeds the admission criteria~~
 383 ~~for a facility with a standard license, if the individual is~~
 384 ~~determined appropriate for admission to the extended congregate~~
 385 ~~care facility.~~

386 6. Before the admission of an individual to a facility
 387 licensed to provide extended congregate care services, the
 388 individual must undergo a medical examination as provided in s.
 389 429.26(4) and the facility must develop a preliminary service
 390 plan for the individual.

391 7. If ~~When~~ a facility can no longer provide or arrange for
 392 services in accordance with the resident's service plan and

PCS for HB 1319

ORIGINAL

YEAR

393 needs and the facility's policy, the facility must ~~shall~~ make
 394 arrangements for relocating the person in accordance with s.
 395 429.28 (1) (k) .

396 ~~8. Failure to provide extended congregate care services~~
 397 ~~may result in denial of extended congregate care license~~
 398 ~~renewal.~~

399
 400 The agency may deny or revoke a facility's extended congregate
 401 care license for not meeting the standards of an extended
 402 congregate care license or for any of the grounds listed in this
 403 subsection.

404 (c) A limited nursing services license shall be issued to
 405 a facility that provides services beyond those authorized in
 406 paragraph (a) and as specified in this paragraph.

407 1. In order for limited nursing services to be provided in
 408 a facility licensed under this part, the agency must first
 409 determine that all requirements established in law and rule are
 410 met and must specifically designate, on the facility's license,
 411 that such services may be provided. Such designation may be made
 412 at the time of initial licensure or licensure renewal
 413 ~~relicensure~~, or upon request in writing by a licensee under this
 414 part and part II of chapter 408. Notification of approval or
 415 denial of such request shall be made in accordance with part II
 416 of chapter 408. An existing facility that qualifies ~~facilities~~
 417 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
 418 maintained a standard license and may not have been subject to
 419 administrative sanctions that affect the health, safety, and
 420 welfare of residents for the previous 2 years or since initial

PCS for HB 1319

ORIGINAL

YEAR

421 licensure if the facility has been licensed for less than 2
 422 years.

423 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
 424 limited nursing services shall maintain a written progress
 425 report on each person who receives such nursing services. The,
 426 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
 427 scope, and outcome of services that are rendered and the general
 428 status of the resident's health. A registered nurse representing
 429 the agency shall visit the facility ~~such facilities~~ at least
 430 annually ~~twice a year~~ to monitor residents who are receiving
 431 limited nursing services and to determine if the facility is in
 432 compliance with applicable provisions of this part, part II of
 433 chapter 408, and related rules. The monitoring visits may be
 434 provided through contractual arrangements with appropriate
 435 community agencies. A registered nurse shall also serve as part
 436 of the team that inspects such facility. Visits may be in
 437 conjunction with other agency inspections. The agency may waive
 438 one of the required yearly monitoring visits for a facility that
 439 has:

440 a. A limited nursing services license for at least 24
 441 months;

442 b. No class I or class II violations and no uncorrected
 443 class III violations; and

444 c. No confirmed ombudsman council complaints that resulted
 445 in a citation for licensure.

446 3. A person who receives limited nursing services under
 447 this part must meet the admission criteria established by the
 448 agency for assisted living facilities. When a resident no longer

PCS for HB 1319

ORIGINAL

YEAR

449 | meets the admission criteria for a facility licensed under this
 450 | part, arrangements for relocating the person shall be made in
 451 | accordance with s. 429.28(1)(k), unless the facility is licensed
 452 | to provide extended congregate care services.

453 | Section 4. Section 429.075, Florida Statutes, is amended
 454 | to read:

455 | 429.075 Limited mental health license.—An assisted living
 456 | facility that serves one ~~three~~ or more mental health residents
 457 | must obtain a limited mental health license.

458 | (1) To obtain a limited mental health license, a facility
 459 | must hold a standard license as an assisted living facility,
 460 | must not have any current uncorrected ~~deficiencies or~~
 461 | violations, and must ensure that, within 6 months after
 462 | receiving a limited mental health license, the facility
 463 | administrator and the staff of the facility who are in direct
 464 | contact with mental health residents must complete training of
 465 | no less than 6 hours related to their duties. Such designation
 466 | may be made at the time of initial licensure or relicensure or
 467 | upon request in writing by a licensee under this part and part
 468 | II of chapter 408. Notification of approval or denial of such
 469 | request shall be made in accordance with this part, part II of
 470 | chapter 408, and applicable rules. This training must ~~will~~ be
 471 | provided by or approved by the Department of Children and Family
 472 | Services.

473 | (2) A facility that is ~~Facilities~~ licensed to provide
 474 | services to mental health residents must ~~shall~~ provide
 475 | appropriate supervision and staffing to provide for the health,
 476 | safety, and welfare of such residents.

PCS for HB 1319

ORIGINAL

YEAR

477 (3) A facility that has a limited mental health license
 478 must:

479 (a) Have a copy of each mental health resident's community
 480 living support plan and the cooperative agreement with the
 481 mental health care services provider. The support plan and the
 482 agreement may be combined.

483 (b) Have documentation that is provided by the Department
 484 of Children and Family Services that each mental health resident
 485 has been assessed and determined to be able to live in the
 486 community in an assisted living facility that has ~~with~~ a limited
 487 mental health license, or provide written evidence that a
 488 request for documentation was sent to the Department of Children
 489 and Family Services within 72 hours of admission.

490 (c) Make the community living support plan available for
 491 inspection by the resident, the resident's legal guardian, the
 492 resident's health care surrogate, and other individuals who have
 493 a lawful basis for reviewing this document.

494 (d) Assist the mental health resident in carrying out the
 495 activities identified in the individual's community living
 496 support plan.

497 (4) A facility that has ~~with~~ a limited mental health
 498 license may enter into a cooperative agreement with a private
 499 mental health provider. For purposes of the limited mental
 500 health license, the private mental health provider may act as
 501 the case manager.

502 Section 5. Section 429.14, Florida Statutes, is amended to
 503 read:

504 429.14 Administrative penalties.—

PCS for HB 1319

ORIGINAL

YEAR

505 (1) In addition to the requirements of part II of chapter
 506 408, the agency may deny, revoke, and suspend any license issued
 507 under this part and impose an administrative fine in the manner
 508 provided in chapter 120 against a licensee for a violation of
 509 any provision of this part, part II of chapter 408, or
 510 applicable rules, or for any of the following actions by a
 511 licensee, for the actions of any person subject to level 2
 512 background screening under s. 408.809, or for the actions of any
 513 facility staff ~~employee~~:

514 (a) An intentional or negligent act seriously affecting
 515 the health, safety, or welfare of a resident of the facility.

516 (b) A ~~The~~ determination by the agency that the owner lacks
 517 the financial ability to provide continuing adequate care to
 518 residents.

519 (c) Misappropriation or conversion of the property of a
 520 resident of the facility.

521 (d) Failure to follow the criteria and procedures provided
 522 under part I of chapter 394 relating to the transportation,
 523 voluntary admission, and involuntary examination of a facility
 524 resident.

525 (e) A citation of any of the following violations
 526 ~~deficiencies~~ as specified in s. 429.19:

- 527 1. One or more cited class I violations ~~deficiencies~~.
- 528 2. Three or more cited class II violations ~~deficiencies~~.
- 529 3. Five or more cited class III violations ~~deficiencies~~
 530 that have been cited on a single survey and have not been
 531 corrected within the times specified.

532 (f) Failure to comply with the background screening

PCS for HB 1319

ORIGINAL

YEAR

533 standards of this part, s. 408.809(1), or chapter 435.

534 (g) Violation of a moratorium.

535 (h) Failure of the license applicant, the licensee during
 536 relicensure, or a licensee that holds a provisional license to
 537 meet the minimum license requirements of this part, or related
 538 rules, at the time of license application or renewal.

539 (i) An intentional or negligent life-threatening act in
 540 violation of the uniform firesafety standards for assisted
 541 living facilities or other firesafety standards which ~~that~~
 542 threatens the health, safety, or welfare of a resident of a
 543 facility, as communicated to the agency by the local authority
 544 having jurisdiction or the State Fire Marshal.

545 (j) Knowingly operating any unlicensed facility or
 546 providing without a license any service that must be licensed
 547 under this chapter or chapter 400.

548 (k) Any act constituting a ground upon which application
 549 for a license may be denied.

550 (2) Upon notification by the local authority having
 551 jurisdiction or by the State Fire Marshal, the agency may deny
 552 or revoke the license of an assisted living facility that fails
 553 to correct cited fire code violations that affect or threaten
 554 the health, safety, or welfare of a resident of a facility.

555 (3) The agency may deny or revoke a license of an ~~to any~~
 556 applicant or controlling interest as defined in part II of
 557 chapter 408 which has or had a 25-percent or greater financial
 558 or ownership interest in any other facility that is licensed
 559 under this part, or in any entity licensed by this state or
 560 another state to provide health or residential care, if that

PCS for HB 1319

ORIGINAL

YEAR

561 ~~which~~ facility or entity during the 5 years prior to the
 562 application for a license closed due to financial inability to
 563 operate; had a receiver appointed or a license denied,
 564 suspended, or revoked; was subject to a moratorium; or had an
 565 injunctive proceeding initiated against it.

566 (4) The agency shall deny or revoke the license of an
 567 assisted living facility if:

568 (a) The applicant or licensee had a license that was
 569 revoked by the agency, the Department of Children and Family
 570 Services, the Department of Juvenile Justice, or the Agency for
 571 Persons with Disabilities.

572 (b) There are two moratoria, issued pursuant to this part
 573 or part II of chapter 408, within a 2-year period which are
 574 imposed by final order;

575 (c) The facility is cited for two or more class I
 576 violations arising from unrelated circumstances during the same
 577 survey or investigation; or

578 (d) The facility is cited for two or more class I
 579 violations arising from separate surveys or investigations
 580 within a 2-year period that has two or more class I violations
 581 that are similar or identical to violations identified by the
 582 agency during a survey, inspection, monitoring visit, or
 583 complaint investigation occurring within the previous 2 years.
 584 The licensee may present factors in mitigation of revocation,
 585 and the agency may make a determination not to revoke a license
 586 based upon a showing that revocation is inappropriate under the
 587 circumstances.

588 (5) An action taken by the agency to suspend, deny, or

PCS for HB 1319

ORIGINAL

YEAR

589 | revoke a facility's license under this part or part II of
 590 | chapter 408, in which the agency claims that the facility owner
 591 | or an employee of the facility has threatened the health,
 592 | safety, or welfare of a resident of the facility must be heard
 593 | by the Division of Administrative Hearings of the Department of
 594 | Management Services within 120 days after receipt of the
 595 | facility's request for a hearing, unless that time limitation is
 596 | waived by both parties. The administrative law judge shall ~~must~~
 597 | render a decision within 30 days after receipt of a proposed
 598 | recommended order.

599 | (6) The agency shall impose an immediate moratorium, as
 600 | provided under s. 408.814, on an assisted living facility that
 601 | fails to provide the agency access to the facility or prohibits
 602 | the agency from conducting a regulatory inspection. The licensee
 603 | may not restrict agency staff in accessing and copying records
 604 | or in conducting interviews with facility staff or any
 605 | individual who receives services from the facility ~~provide to~~
 606 | ~~the Division of Hotels and Restaurants of the Department of~~
 607 | ~~Business and Professional Regulation, on a monthly basis, a list~~
 608 | ~~of those assisted living facilities that have had their licenses~~
 609 | ~~denied, suspended, or revoked or that are involved in an~~
 610 | ~~appellate proceeding pursuant to s. 120.60 related to the~~
 611 | ~~denial, suspension, or revocation of a license.~~

612 | (7) Agency notification of a license suspension or
 613 | revocation, or denial of a license renewal, shall be posted and
 614 | visible to the public at the facility.

615 | (8) If a facility is required to relocate some or all of
 616 | its residents due to agency action, that facility is exempt from

PCS for HB 1319

ORIGINAL

YEAR

617 the 45 days' notice requirement in s. 429.28(1)(k). This
 618 provision does not exempt the facility from any deadlines for
 619 corrective action set by the agency.

620 Section 6. Section 429.19, Florida Statutes, is amended to
 621 read:

622 429.19 Violations; imposition of administrative fines;
 623 grounds.—

624 (1) In addition to the requirements of part II of chapter
 625 408, the agency shall impose an administrative fine in the
 626 manner provided in chapter 120 for the violation of any
 627 provision of this part, part II of chapter 408, and applicable
 628 rules by an assisted living facility, for the actions of any
 629 person subject to level 2 background screening under s. 408.809,
 630 for the actions of any facility employee, or for an intentional
 631 or negligent act seriously affecting the health, safety, or
 632 welfare of a resident of the facility.

633 (2) Each violation of this part and adopted rules must
 634 ~~shall~~ be classified according to the nature of the violation and
 635 the gravity of its probable effect on facility residents. The
 636 agency shall indicate the classification on the written notice
 637 of the violation as follows:

638 (a) Class "I" violations are defined in s. 408.813. The
 639 agency shall impose an administrative fine of \$7,500 for each a
 640 cited class I violation in a facility that is licensed for fewer
 641 than 100 beds at the time of the violation ~~in an amount not less~~
 642 ~~than \$5,000 and not exceeding \$10,000 for each violation. The~~
 643 agency shall impose an administrative fine of \$11,250 for each
 644 cited class I violation in a facility that is licensed for 100

PCS for HB 1319

ORIGINAL

YEAR

645 or more beds at the time of the violation. If the noncompliance
 646 occurs within the prior 12 months, the fine must be levied for
 647 violations that are corrected before an inspection.

648 (b) Class "II" violations are defined in s. 408.813. The
 649 agency shall impose an administrative fine of \$3,000 for each a
 650 cited class II violation in a facility that is licensed for
 651 fewer than 100 beds at the time of the violation in an amount
 652 not less than \$1,000 and not exceeding \$5,000 for each
 653 violation. The agency shall impose an administrative fine of
 654 \$4,500 for each cited class II violation in a facility that is
 655 licensed for 100 or more beds at the time of the violation.

656 (c) Class "III" violations are defined in s. 408.813. The
 657 agency shall impose an administrative fine of \$750 for each a
 658 cited class III violation in a facility that is licensed for
 659 fewer than 100 beds at the time of the violation in an amount
 660 not less than \$500 and not exceeding \$1,000 for each violation.
 661 The agency shall impose an administrative fine of \$1,125 for
 662 each cited class III violation in a facility that is licensed
 663 for 100 or more beds at the time of the violation.

664 (d) Class "IV" violations are defined in s. 408.813. The
 665 agency shall impose an administrative fine of \$150 for each a
 666 cited class IV violation in a facility that is licensed for
 667 fewer than 100 beds at the time of the violation in an amount
 668 not less than \$100 and not exceeding \$200 for each violation.
 669 The agency shall impose an administrative fine of \$225 for each
 670 cited class IV violation in a facility that is licensed for 100
 671 or more beds at the time of the violation.

672 (e) Any fine imposed for class I and class II violations

PCS for HB 1319

ORIGINAL

YEAR

673 must be doubled if a facility was previously cited for one or
 674 more class I or class II violations during the agency's last
 675 licensure inspection or any inspection or complaint
 676 investigation since the last licensure inspection.

677 (f) Notwithstanding s. 408.813(2)(c) and (d) and s.
 678 408.832, a fine must be imposed for each class III and class IV
 679 violation, regardless of correction, if a facility was
 680 previously cited for one or more class III or class IV
 681 violations during the agency's last licensure inspection or any
 682 inspection or complaint investigation since the last licensure
 683 inspection, for the same regulatory violation. A fine imposed
 684 for class III or class IV violations must be doubled if a
 685 facility was previously cited for one or more class III or class
 686 IV violations during the agency's last two licensure inspections
 687 for the same regulatory violation.

688 (g) Regardless of the class of violation cited, instead of
 689 the fine amounts listed in paragraphs (a)-(d), the agency shall
 690 impose an administrative fine of \$500 if a facility is found not
 691 to be in compliance with the background screening requirements
 692 as provided in s. 408.809.

693 ~~(3) For purposes of this section, in determining if a~~
 694 ~~penalty is to be imposed and in fixing the amount of the fine,~~
 695 ~~the agency shall consider the following factors:~~

696 ~~(a) The gravity of the violation, including the~~
 697 ~~probability that death or serious physical or emotional harm to~~
 698 ~~a resident will result or has resulted, the severity of the~~
 699 ~~action or potential harm, and the extent to which the provisions~~
 700 ~~of the applicable laws or rules were violated.~~

PCS for HB 1319

ORIGINAL

YEAR

701 ~~(b) Actions taken by the owner or administrator to correct~~
 702 ~~violations.~~

703 ~~(c) Any previous violations.~~

704 ~~(d) The financial benefit to the facility of committing or~~
 705 ~~continuing the violation.~~

706 ~~(e) The licensed capacity of the facility.~~

707 (3)~~(4)~~ Each day of continuing violation after the date
 708 established by the agency ~~fixed~~ for correction ~~termination~~ of
 709 the violation, ~~as ordered by the agency,~~ constitutes an
 710 additional, separate, and distinct violation.

711 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be
 712 documented in writing by the owner or administrator of the
 713 facility and verified through followup visits by agency
 714 personnel. The agency may impose a fine and, in the case of an
 715 owner-operated facility, revoke or deny a facility's license
 716 when a facility administrator fraudulently misrepresents action
 717 taken to correct a violation.

718 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a
 719 change-of-ownership license in accordance with part II of
 720 chapter 408 and operates the facility under the new ownership is
 721 subject to a fine of \$5,000.

722 (6)~~(7)~~ In addition to any administrative fines imposed,
 723 the agency may assess a survey fee, equal to the lesser of one
 724 half of the facility's biennial license and bed fee or \$500, to
 725 cover the cost of conducting initial complaint investigations
 726 that result in the finding of a violation that was the subject
 727 of the complaint or monitoring visits conducted under s.
 728 429.28(3)(c) to verify the correction of the violations.

PCS for HB 1319

ORIGINAL

YEAR

729 ~~(7)-(8)~~ During an inspection, the agency shall make a
 730 reasonable attempt to discuss each violation with the owner or
 731 administrator of the facility, prior to written notification.

732 ~~(8)-(9)~~ The agency shall develop and disseminate an annual
 733 list of all facilities sanctioned or fined for violations of
 734 state standards, the number and class of violations involved,
 735 the penalties imposed, and the current status of cases. The list
 736 shall be disseminated, at no charge, to the Department of
 737 Elderly Affairs, the Department of Health, the Department of
 738 Children and Family Services, the Agency for Persons with
 739 Disabilities, the area agencies on aging, the Florida Statewide
 740 Advocacy Council, and the state and local ombudsman councils.
 741 The Department of Children and Family Services shall disseminate
 742 the list to service providers under contract to the department
 743 who are responsible for referring persons to a facility for
 744 residency. The agency may charge a fee commensurate with the
 745 cost of printing and postage to other interested parties
 746 requesting a copy of this list. This information may be provided
 747 electronically or through the agency's Internet site.

748 Section 7. Subsection (5) of section 429.41, Florida
 749 Statutes, is amended to read:

750 429.41 Rules establishing standards.—

751 (5) In order to allocate resources effectively, the agency
 752 may use an abbreviated biennial standard licensure inspection
 753 that consists of a review of key quality-of-care standards in
 754 lieu of a full inspection in a facility that has a good record
 755 of past performance. However, a full inspection must be
 756 conducted in a facility that has a history of class I or class

PCS for HB 1319

ORIGINAL

YEAR

757 II violations, uncorrected class III violations, confirmed
 758 ombudsman council complaints that resulted in a citation for
 759 licensure, or confirmed licensure complaints which resulted in a
 760 citation for a licensure violation, within the previous
 761 licensure period immediately preceding the inspection or if a
 762 potentially serious problem is identified during the abbreviated
 763 inspection. The agency, in consultation with the department,
 764 shall develop the key quality-of-care standards with input from
 765 the State Long-Term Care Ombudsman Council and representatives
 766 of provider groups for incorporation into its rules.

767 Section 8. Present subsections (1) through (11) of section
 768 429.52, Florida Statutes, are redesignated as subsections (2)
 769 through (12), respectively, new subsections (1) and (11) are
 770 added to that section, and present subsection (9) of that
 771 section is amended, to read:

772 429.52 Staff training and educational programs; core
 773 educational requirement.—

774 (1) Effective October 1, 2013, each new assisted living
 775 facility employee who has not previously completed core training
 776 must attend a preservice orientation provided by the facility
 777 before interacting with residents. The preservice orientation
 778 must be at least 2 hours in duration and cover topics that help
 779 the employee provide responsible care and respond to the needs
 780 of residents of the facility. Upon completion, the employee and
 781 the administrator of the facility must sign an affidavit stating
 782 that the employee completed the required preservice orientation.
 783 The facility must keep the affidavit in the employee's work
 784 file.

PCS for HB 1319

ORIGINAL

YEAR

785 (10)~~(9)~~ The training required by this section must ~~shall~~
 786 be conducted by persons registered with the department as having
 787 the requisite experience and credentials to conduct the
 788 training. A person seeking to register as a trainer must provide
 789 the department with proof of completion of the minimum core
 790 training education requirements, successful passage of the
 791 competency test established under this section, and proof of
 792 compliance with the continuing education requirement in
 793 subsection (5)~~(4)~~.

794 (11) The agency in conjunction with the department shall
 795 establish a database for collection of training requirements,
 796 competency testing, and documentation required pursuant to this
 797 part. The database shall be used by administrators and licensees
 798 to determine eligibility of staff. The department may adopt
 799 additional reporting requirements by rules. Effective July 1,
 800 2014, organizations and individuals providing training, testing,
 801 or documentation under this part must submit the following
 802 electronically to the agency:

803 (a) The trainee's names and identifying information; dates
 804 of training, tests or certificates of successful passage,
 805 completion, and attendance; and scores for competency testing
 806 for persons trained, tested or issued certificates.

807 (b) Identifying information for the organization or
 808 individual providing the training, testing or certificates.

809
 810 Failure to comply with reporting requirements may result in
 811 suspension of the authority to offer training, testing, or issue
 812 certificates.

PCS for HB 1319

ORIGINAL

YEAR

813 Section 9. Subsection (3) is added to section 429.54,
814 Florida Statutes, to read:

815 429.54 Collection of information; local subsidy.—

816 (3) Subject to the availability of funds, the agency, the
817 department, the Department of Children and Family Services, and
818 the Agency for Persons with Disabilities shall develop or modify
819 electronic systems of communication among state-supported
820 automated systems to ensure that relevant information pertaining
821 to the regulation of assisted living facilities and facility
822 staff is timely and effectively communicated among agencies in
823 order to facilitate the protection of residents.

824 Section 10. Section 429.55, Florida Statutes, is created
825 to read:

826 429.55 Intersurveyor reliability.-- The Legislature finds
827 that consistent regulation of assisted living facilities
828 benefits residents and operators of such facilities. To
829 determine whether surveys are consistent between surveys and
830 surveyors, the Agency for Health Care Administration shall
831 conduct a study of intersurveyor reliability for assisted living
832 facilities. By November 1, 2013, the agency shall report to the
833 Governor, the President of the Senate, and the Speaker of the
834 House of Representatives its findings and make any
835 recommendations to improve intersurveyor reliability.

836 Section 11. Section 429.56, Florida Statutes, is created
837 to read:

838 429.56 Consumer Information.-- The Legislature finds that
839 consumers need additional information on the quality of care and
840 service in assisted living facilities in order to select the

PCS for HB 1319

ORIGINAL

YEAR

841 best facility for themselves or their loved ones. Therefore, the
 842 Agency for Health Care Administration shall:

843 (1) Propose a rating system for assisted living
 844 facilities. The proposal must include, but is not limited to,
 845 the data elements to be used, the method of collecting the data,
 846 the method of determining the rating, an estimate of the initial
 847 and ongoing costs of a rating system to both the agency and
 848 assisted living facilities, and a timetable for the
 849 implementation of the rating system for assisted living
 850 facilities. The agency shall submit its proposal to the
 851 Governor, the President of the Senate, and the Speaker of the
 852 House of Representatives by November 1, 2013.

853 (2) By January 1, 2014, create a content that is easily
 854 accessible through the front page of the agency's website. At a
 855 minimum, the content must include:

856 (a) Information on each licensed assisted living facility,
 857 including, but not limited to:

- 858 1. The name and address of the facility.
- 859 2. The number and type of licensed beds in the facility.
- 860 3. The types of licenses held by the facility.
- 861 4. The facility's license expiration date and status.
- 862 5. Other relevant information that the agency currently
 863 collects.

864 (b) A list of the facility's violations, including, for
 865 each violation:

- 866 1. A summary of the violation which is presented in a
 867 manner understandable by the general public;
- 868 2. Any sanctions imposed by final order; and

PCS for HB 1319

ORIGINAL

YEAR

869 | 3. The date of the correction.
870 | (c) Links to inspection reports that the agency has on
871 | file.
872 | Section 12. This act shall take effect July 1, 2013.